

Practitioner's Pocket No. U013381-1

Dep & Ref #307

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

[x] In re application of: FRED OSWALD, ET AL.

Application No.: 10/021,905

Group No.: 3673

Filed: DECEMBER 13, 2001

Examiner:

For: VIBRATOR AND RELATED METHOD

#6/ Reg for

Refund

08-01-02

[ ] Patent No.:

Issued:

\*NOTE: Insert name(s) of inventor(s) and title also for patent. Where the refund request is with respect to a maintenance fee payment, also insert application number and filing date, and add Box M. Fee to address.

Commissioner for Patents

Washington, D.C. 20231

ATTENTION: Refund Section, Accounting Division, office of Finance

REQUEST FOR REFUND  
(37 C.F.R. 1.28(a))

NOTE: 37 C.F.R. § 1.28(a): "(a) Refunds based on later establishment of small entity status. A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee."

I. SUBMISSION OF SMALL ENTITY STATEMENT

(complete (a) or (b))

- (a) [x] Attached is a Written Assertion claiming small entity status in this application.
- (b) [ ] A Statement or Written Assertion claiming small entity status was filed in this application on \_\_\_\_\_.

US PATENT & TRADEMARK  
OFFICE  
2002 MAY 16 PM 2:48  
OFFICE OF FINANCE  
REFUND BRANCH

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

FACSIMILE

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

Peter D. Galloway

(type or print name of person certifying)

Date: May 2, 2002

## II. REFUND REQUEST

**NOTE:** 37 C.F.R. § 1.28(b)(1): "(b) Date of payment. (1) The three-month period for requesting a refund, pursuant to paragraph (a) of this section, starts on the date that a full fee has been paid..."

This request for refund is made within three months of the date a fee was paid in this application on February 4, 2002, in the amount of \$ 2352.00.

**NOTE:** If the fee was charged to a deposit account, a request for refund must be filed within two months of the date of the charge to the deposit account.

## III. FEES PAID FOR WHICH REFUND REQUESTED

### AMOUNT OF REFUND REQUESTED

- ☒ Filing fee & extra claim fees  
☐ Surcharge for filing the basic filing  
fee on a date later than the filing  
date of the application  
(37 CFR 1.16(e) or 37 CFR 1.16(l)).

\$ 1111.00

\$ 65.00

OR

- ☐ Surcharge for filing the oath or  
declaration on a date later than the  
filing date of the application  
(37 CFR 1.16(e))  
  
☐ Surcharge for filing the basic filing  
fee on a date later than the filing date  
of the provisional application  
(37 CFR 1.51(c)(1) and 37 CFR 1.16(l))

\$ \_\_\_\_\_

\$ \_\_\_\_\_

OR

- ☐ Surcharge for filing the cover sheet  
on a date later than the filing date  
of the provisional application  
(37 CFR 1.51(c)(1) and 37 CFR 1.16(l))

\$ \_\_\_\_\_

- ☐ Extension of term  
☐ Issue fee  
☐ Patent maintenance fee  
    ☐ first maintenance fee  
    ☐ second maintenance fee  
    ☐ third maintenance fee  
☐ Patent maintenance fee surcharge.

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

**NOTE:** The refund provisions of § 1.28(a), for later submitted small entity statements, apply to maintenance fees. Notice of July 30, 1984, 1046 O.G. 28-37.

- ☐ Other

\$ \_\_\_\_\_

TOTAL REFUND REQUESTED

\$ 1176.00

IV. MANNER OF REFUND

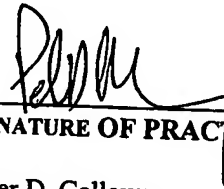
Please make refund by

☒ crediting Account No. 12-0425  
☐ refunding overpayment.

Reg. No. 27,885

Tel. No.: (212) 708-1905

Customer No.: 00140



SIGNATURE OF PRACTITIONER

Peter D. Galloway

(type or print name of practitioner)

P.O. Address

c/o Ladas & Parry  
26 West 61<sup>st</sup> Street  
New York, N.Y. 10023



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: **FRED OSWALD, ET AL.**

Serial No.: 10/021,905

Group No.: 3673

Filed: DECEMBER 13, 2001

Examiner:

For: **VIBRATOR AND RELATED METHOD**

Attorney Docket No.: U013381-1

Assistant Commissioner for Patents  
Washington, D.C. 20231

**WRITTEN ASSERTION OF SMALL ENTITY STATUS**

This is written assertion on the basis of:

- ☐ personal knowledge;  
☐ applicant's letter of \_\_\_\_\_;  
☐ applicant's agent's letter of \_\_\_\_\_; or  
☒ other TELEPHONE CONFERENCE WITH APPLICANT ON APRIL 26, 2002.  
by a practitioner (not necessarily of record) that the above application is entitled to small entity status and, therefore, fees.

**CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10\***  
(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

- ☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

**37 C.F.R. 1.8(a)**

- ☒ with sufficient postage as first class mail.

**37 C.F.R. 1.10\***

- ☐ as "Express Mail Post Office to Address"  
Mailing Label No. \_\_\_\_\_ (mandatory)

**TRANSMISSION**

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Date: May 2, 2002

Signature

PETER D. GALLOWAY  
(type or print name of person certifying)

**\*WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).  
"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

NOTE: "To establish small entity status after the payment of the basic filing or national stage fee as a non-small entity, a written assertion of small entity status is required to be submitted." Notice of September 8, 2000, 65 Fed. Reg. 54604, at 54609.

NOTE: 37 C.F.R. § 1.27(c)(1): "Assertion by writing. Small entity status may be established by a written assertion of entitlement to small entity status. A written assertion must:

- (i) Be clearly identifiable;
- (ii) Be signed (see paragraph (c)(2) of this section); and
- (iii) Convey the concept of entitlement to small entity status, such as by stating that applicant is a small entity, or that small entity status is entitled to be asserted for the application or patent. While no specific words or wording are required to assert small entity status, the intent to assert small entity status must be clearly indicated in order to comply with the assertion requirement."

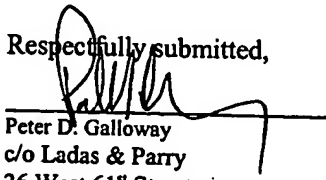
NOTE: 37 C.F.R. § 1.27(c)(2): "Parties who can sign and file the written assertion. The written assertion can be signed by:

- (i) One of the parties identified in § 1.33(b) (e.g. an attorney or agent registered with the Office). § 3.73(b) of this chapter notwithstanding, who can also file the written assertion;
- (ii) At least one of the individuals identified as an inventor (even though a § 1.63 executed oath or declaration has not been submitted), notwithstanding § 1.33(b)(4), who can also file the written assertion pursuant to the exception under § 1.33(b) of this part; or
- (iii) An assignee of an undivided part interest, notwithstanding §§ 1.33(b)(3) and 3.73(b) of this chapter, but the partial assignee cannot file the assertion without resort to a party identified under § 1.33(b) of this part."

35 C.F.R. § 1.33(b):

- (b) Amendment and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
  - (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
  - (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
  - (3) An assignee as provided for under § 3.71(b) of this chapter; or
  - (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Respectfully submitted,

  
Peter D. Galloway  
c/o Ladas & Parry  
26 West 61<sup>st</sup> Street  
New York, N. Y. 10023  
Reg. No.: 27,885 (212)708-1905